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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,472	02/26/2002	Christer O. Andreasson	263/291	4874

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ORRICK, HERRINGTON & SUTCLIFFE, LLP
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

EXAMINER	
FUREMAN, JARED	
ART UNIT	**PAPER NUMBER**
2876	

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/085,472	ANDREASSON ET AL.	
	Examiner	Art Unit	
	Jared J. Fureman	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 July 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 14-41* is/are pending in the application.

4a) Of the above claim(s) *28-39* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,14-27,40 and 41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/26/2004 has been entered. Claims 1-11 and 14-41 are pending, with claims 28-39 having been withdrawn as directed to a non-elected invention. It is noted that applicants have not traversed the restriction and election by original presentation set forth in the office action mailed on 4/26/2004.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 11, 14-26, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan et al (US 6,539,281 B2, previously cited) in view of Yarin et al (US 6,294,999 B1).

Wan et al teaches an apparatus and method for tracking/monitoring medical products (medication 418), each of the medical products having a Radio Frequency

Identification (RFID) tag (label 420) uniquely associated therewith, the apparatus comprising: a casing/medication dispensing unit (cabinet 200) comprising a compartment (medication storage area 414) for receiving one or more medical products therein; a reader (sensor 422) for reading the RFID tags associated with the medical products in the compartment; and a processor (computer 204) coupled to the reader for receiving and processing readings of the RFID tags in the compartment to identify the medical products in the compartment; wherein the processor identifies a medical product removed from the compartment by determining a difference between readings of the RFID tags in the compartment taken before and after the medical product is removed from the compartment (steps 602 and 604 or 702 and 704); identifying a patient (identify user, see step 700 of figure 7); wherein the processor verifies that the medical product removed from the compartment is authorized to be removed by comparing a product identifier associated with the RFID tag of the removed medical product to a product identifier of a medical product authorized to be removed from the compartment (authorized for a specific user, for example, see step 706 of figure 7); wherein the product identifier comprises a product name (the use of a tag/label suggests the use of a name); further comprising a display (display 202 or 402) coupled to the processor, and wherein the processor displays a mismatch notification on the display when the processor detects a mismatch between the product identifier read from the RFID tag of the removed medical product and the product identifier of the medical product authorized to be removed (step 708 in figure 7, for example); wherein the mismatch notification comprises the product identifier read from the RFID tag of the

removed medical product and the product identifier of the medical authorized to be removed; wherein the apparatus includes a single reader for reading the RFID tags of all medical products in the casing (see column 7, lines 28-30); wherein the casing comprises a plurality of compartments (different shelves within the medication storage area 414, for example, see figure 4), and wherein the reader comprises a plurality of readers for reading the RFID tags of medical products in respective compartments (figure 4 shows a plurality of readers 422); further comprising an input device (camera 406 for facial recognition, or fingerprint detection equipment 426, for example) coupled to the processor for identifying a patient to be associated with one or more medical products being removed from the compartment; further comprising a return compartment for returning unused medical products, and a reader for reading an RFID tag of any returned medical product placed in the return compartment, the processor coupled to the reader for identifying the returned medical product (unused medication may be returned to the compartment(s) and the return will be detected by sensors 422 and 424); sending a notice that the intended patient did not receive the returned medical product (for example, the weight sensor 424 will detect that the amount of medication did not change, and send a message to the computer 204 indicating the amount of medication remaining); further comprising transmitting an inventory notice from the dispensing unit when a quantity of RFID tags stored within the dispensing unit falls below a threshold (steps 710 and 711 of figure 7); (see figures 2-7, column 1 line 62 - column 2 line 15, column 2 line 37 - column 3 line 5, column 3 line 30 - column 4 line 5,

column 4 lines 19-26, column 5 line 21 - column 6 line 5, column 6 lines 24-67, column 7 line 9 - column 9 line 18).

Wan et al fails to specifically teach the medical products being unit dose medical products, each of the unit dose medical products having a RFID tag uniquely associated therewith; wherein the unit dose medical products are medication containers each comprising a bottle.

Yarin et al teaches unit dose medical products (80) each having an RFID tag (82) uniquely associated therewith (see figure 12 and column 12 line 66 - column 13 line 13); Yarin et al also teaches monitoring medical products wherein the unit dose medical products are medication containers each comprising a bottle (see column 6, lines 20-24).

In view of Yarin et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the apparatus and method as taught by Wan et al, the medical products being unit dose medical products, each of the unit dose medical products having a RFID tag uniquely associated therewith: wherein the unit dose medical products are medication containers each comprising a bottle, in order to provide the ability to accurately track whether a particular dose of a medication has been taken by a patient at a prescribed time (see column 13, lines 8-13, of Yarin et al).

4. Claims 1-10, 27, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan et al in view of Yarin et al and McGrady (US 6,470,234 B1, previously cited).

The teachings of Wan et al as modified by Yarin et al have been discussed above.

Wan et al as modified by Yarin et al fails to teach the casing comprising a plurality of lockable drawers and the medical products being stored in and removed from the drawers; unassigning a returned medical product from the intended patient; and wherein the unit dose medical product removed from the dispensing unit is assigned to an individual patient after removal from the dispensing unit.

McGrady teaches that it is desirable to store narcotics and other restricted items in lockable drawers, and provide access to the drawers only when a set of predetermined conditions are satisfied (see column 16, lines 12-24); unassigning a returned medical product from an intended patient (indicating a return of the medical product to inventory, for example, see column 17, lines 30-37); and wherein the unit dose medical product removed from the dispensing unit is assigned to an individual patient after removal from the dispensing unit (see column 17, lines 14-21).

In view of McGrady's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to replace the compartments, as taught by Wan et al as modified by Yarin et al, with a plurality of lockable drawers; unassigning a returned medical product from the intended patient; and wherein the unit dose medical product removed from the dispensing unit is assigned to an individual patient after removal from the dispensing unit, in order to restrict access to the medical products, thereby increasing the safety/security of the apparatus by preventing access to the medical products by unauthorized persons, and maintaining an accurate inventory of

medical products by unassigning returned medical products and assigning medical products after removal.

Response to Arguments

5. Applicant's arguments with respect to claims 1-11 and 14-27, 40 and 41, with respect to the medical product being a unit dose medical product (see page 13, of the amendment filed on 7/26/2004) have been considered but are moot in view of the new ground(s) of rejection. As discussed above, Yarin et al teaches the benefits of monitoring/tracking a unit dose medical product.

6. Applicant's arguments filed 7/26/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that Wan does not disclose the steps of returning a medical product to the dispensing unit, reading RFID tags after it is returned, and determining a difference between the readings taken before and after the products are returned (see page 13, of the amendment filed on 7/26/2004), Wan et al teaches that the system maintains a database of the amount of medication (see column 7, lines 19-27, of Wan et al). The medication is identified through the use of the label 420. In order to maintain an accurate record of the amount of medication remaining, the system would necessarily have to identify that the medication 418 was returned to the cabinet 200, so that the amount of medication remaining could be determined. Thus, to one of ordinary skill in the art at the time of the invention, Wan et al suggests returning a medical product to the dispensing unit, reading RFID tags after it is returned, and

determining a difference between the readings taken before and after the products are returned.

In response to applicant's argument that specific words used in applicant's claims were not found during a word search of Wan et al (see page 14, of the amendment filed on 7/26/2004), while Wan et al may use different terminology or phrases, what is important is what Wan et al teaches and suggests to one of ordinary skill in the art at the time of the invention. As discussed above, Wan et al teaches and suggests an apparatus and method steps corresponding to applicant's claimed invention.

Conclusion

7. The art made of record and not relied upon is considered pertinent to applicant's disclosure. Harvey et al (US 2004/0094152) and Meek, Jr et al (US 2004/0108795) both teach systems for tracking/monitoring medical products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (571) 272-2391. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jared J. Fureman
Examiner
Art Unit 2876

September 2, 2004